DOUBLE PATENTING

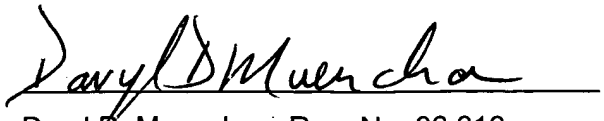
Office finally rejected claims 56-59, 61, 63-65 and 67-69 of the present patent application as obvious over claim 15 of copending patent application No. 10/319,356. As discussed below, the rejection is improperly based and should be withdrawn.

Obviousness-type double patenting was developed to cover the situation where patents or applications are not citable as a reference against each other and therefore can not be examined for compliance with the rule that only one patent is available per invention. Double patenting is thus applied when neither patent is prior art against the other, usually because they have a common priority date. *Eli Lilly and Co. v. Barr Laboratories Inc. et al.*, 251 F.3d 955, 58 U.S.P.Q. 2D 1865 (Fed. Cir. 2001). Copending application No. 10/319,356 does not share a common priority date with this application and obviousness-type double patenting does not apply to these two applications. Applicants request reconsideration and withdrawal of the rejection over copending application No. 10/319,356.

In their prior response, Applicants stated that claim 15 of copending patent application No. 10/319,356 had been canceled and the claims in that application now recite treatment of inflammation conditions. The Office rejected this and alleged that the amendment was not in the copending application. Applicants again assert that claim 15 of copending patent application No. 10/319,356 is canceled and the claims in that application now recite treatment of inflammation conditions. Cancellation of claim 15 in the 10/319,356 application was made in an amendment that was filed in February of 2006.

Respectfully submitted,

Date: June 27, 2006



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